UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1997/L.11
22 August 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 13 (c)

CONCLUDING ITEMS

ADOPTION OF THE REPORT ON THE FORTY-NINTH SESSION

Draft report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-ninth session

Rapporteur: Mr. Marc Bossuyt

CONTENTS*

Chapter — Page

II. Draft resolutions and decisions adopted by the Sub-Commission at its forty-ninth session . . . . . .

A. Resolutions

1997/1. Situation of human rights in the Congo . . .

1997/2. Situation of human rights in Bahrain . . . .

1997/3. Situation of human rights in the Democratic People's Republic of Korea . . . . . .

* E/CN.4/Sub.2/1997/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights, will be contained in documents E/CN.4/Sub.2/1997/L.11 and Addenda.

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
		1997/4. Situation of migrant workers and members of their families	
		1997/5. Racism and racial discrimination	
		1997/6. Forced evictions	
		1997/7. The realization of the right to education, including education in human rights	
		1997/8. Traditional practices affecting the health of women and the girl child	
		1997/9. Implementation of the human rights of women and the girl child	
		1997/10. Permanent forum within the United Nations system for indigenous peoples	
		1997/11. The relationship between the enjoyment of economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations	
		1997/12. Study on indigenous land rights	
		1997/13. Protection of the heritage of indigenous people	
		1997/14. Working Group on Indigenous Populations . . .	
		1997/15. International Decade of the World's Indigenous People	

1997/1 Situation of human rights in the Congo

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming that all Member States have an obligation to promote and protect human rights as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights and other applicable human rights instruments,

Mindful that the Congo is a party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the first Optional Protocol thereto, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and the four Geneva Conventions of 1949,

Recalling the Peace Pact of 24 December 1995 in which the parties agreed to general disarmament and the dissolution of militias,

Welcoming the ceasefire of mid-July 1997 and the continuing discussions in Libreville, within the framework of the International Committee of Mediation for the Negotiated Resolution of the Conflict, presided by the President of Gabon, H.E. Mr. Omar Bongo,

1. Expresses its concern:

(a) That the Peace Pact of 24 December 1995 has not been fully implemented;

(b) At the reports of hundreds of deaths, including those of children and other civilians, in the intercommunal strife which has occurred since early June 1997 and the continuing loss of life in the city of Brazzaville;

(c) At the reports of thousands of people who have been forced to leave their homes in the city of Brazzaville during the intercommunal strife;

(d) At allegations of torture by parties to the conflict;

(e) At the continuing difficulties experienced by the Government of the Congo and humanitarian organizations in providing medical care and other social services in the city of Brazzaville;

(f) At the shoot-on-sight policy announced by the Minister of Security in January and then apparently discontinued, but with no announcement of a formal cancellation of the policy;

(g) That the presidential elections could not be held;

2. Calls upon the Government of the Congo and all parties to the conflict:

(a) To abide by their obligations under international human rights and humanitarian law and to cease abuses;

(b) To create conditions for the delivery of medical care and other social services in the city of Brazzaville;

(c) To select an independent, respected and impartial elections commission to arrange for elections, to allow free and fair elections, to agree to abide by the results, taking into account the need for diversity in the ethnic composition of the Government, and to develop a civil society for the maintenance of human rights and peace;

(d) To develop confidence-building measures so that people from all parts of the Congo can again enjoy freedom of movement;

(e) To develop mechanisms for transparency such that everyone will know how governmental revenues are being distributed and spent;

(f) To provide access to and cooperate with a recognized humanitarian body in protecting the rights of detainees throughout the country and contributing to the protection of the civilian population of the country;

(g) To ensure thorough and impartial investigations into allegations of violations of human rights and international humanitarian law and to bring the perpetrators to justice;

3. Decides to recommend that the Commission on Human Rights consider the situation of human rights in the Congo at its next session and, if the Commission is unable to take action on the situation of human rights in the Congo, to continue consideration of the matter at its fiftieth session under the same agenda item.

23rd meeting
20 August 1997

[Adopted by secret ballot by 13 votes to 10, with 2 abstentions. See chap. IV.]

1997/2. Situation of human rights in Bahrain

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the obligation of States under the Charter of the United Nations to promote and encourage universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming its conviction that racism and racial discrimination negate the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Noting that the elected National Assembly of Bahrain was dissolved in August 1975, that for 22 years Bahrain has been without an elected legislature, and that there are no democratic institutions in Bahrain,

Noting also that Bahrain is facing problems of internationally assisted terrorism, and condemning all acts of terrorism in that country,

Noting further the information concerning a serious deterioration of the human rights situation in Bahrain, including discrimination against the indigenous Shi'a population, extrajudicial killings, persistent use of torture in Bahraini prisons on a large scale as well as the abuse of women and children who are detained, and arbitrary detention without trial or access by detainees to legal advice,

1. Expresses its deep concern about the alleged gross and systematic violations of human rights in Bahrain;

2. Urges the Government of Bahrain to comply with applicable international human rights standards and to ratify the International Covenants on Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

3. Requests the Commission on Human Rights at its next session to consider the situation of human rights in Bahrain under its agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

24th meeting
21 August 1997
[Adopted by secret ballot by 12 votes to 11, with 1 abstention. See chap. IV.]

1997/3. Situation of human rights in the Democratic People's Republic of Korea

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, particularly its article 13, and the International Covenant on Civil and Political Rights, particularly its article 12, to which the Democratic People's Republic of Korea is a party,

Noting, in the light of resolution 1997/22 of the Commission on Human Rights, that the Democratic People's Republic of Korea is not included in the list of countries under consideration by the Commission under public procedures (E/CN.4/Sub.2/1997/33, annex),

Concerned by persistent and concordant allegations that grave violations of human rights are being committed in that country, including recourse to mass internments in administrative detention centres, and by serious restrictions affecting, in violation of article 13 of the Universal Declaration of Human Rights and of article 12 of the International Covenant on Civil and Political Rights, the right of everyone to leave any country, including his own, and to return to his country.

Deeply concerned by the virtual impossibility of obtaining information or visiting that country to ascertain whether or not there are grounds for the allegations concerning the situation of human rights in that country, and to obtain information concerning the legislation in force and the manner in which it is implemented,

Deploring, in this connection, the delay by the Democratic People's Republic of Korea in submitting its periodic report, due now for almost 10 years,

1. Urgently calls upon the Government of the Democratic People's Republic of Korea to ensure full respect for article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights, both of which relate to the right of everyone to leave any country, including his own and to return to his country;

2. Requests the Government of the Democratic People's Republic of Korea to fulfil its obligations and delay no longer the submission of its

periodic report to the Human Rights Committee and to extend its cooperation with the procedures and services established by the United Nations with the aim of ensuring promotion and protection of human rights;

3. Invites the international community to devote greater attention to the situation of human rights in the Democratic People's Republic of Korea and thus assist the population of that country in emerging from the isolation in which it is maintained;

4. Also invites the international community to furnish increased assistance to the Democratic People's Republic of Korea in order to help it to overcome the present period of food shortage and the suffering it is causing.

24th meeting
21 August 1997

[Adopted by secret ballot by 13 votes to 9, with 3 abstentions. See chap. IV.]

1997/4. Situation of migrant workers and members of their families

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolutions 1997/13 and 1997/15, dated 3 April 1997, and its resolution 1996/10 of 23 August 1996,

Reaffirming that acts of violence against migrant workers, both men and women, constitute flagrant violations of the international instruments relating to human rights, and in particular the Convention on the Elimination of All Forms of Discrimination against Women,

Convinced that the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families will contribute to the improvement of the situation of migrant workers and to the protection of their rights,

Sharing the opinion of the Commission on Human Rights on the situation of vulnerability in which migrants frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they encounter because of differences of languages, customs and culture,

Taking note with interest of the recommendations adopted by the seminar on immigration, racism and racial discrimination,

1. Affirms that immigration is by no means a burden but rather a phenomenon whose effects are rewarding for receiving societies in economic, social and cultural terms;

2. Considers that if the geographical dynamics of international migratory movements are steadily increasing, it is because poverty is growing in a large number of developing countries and the use of foreign labour in the developed countries is continuing despite claims that there is a crisis;

3. Regrets the contradiction which exists between the free movement of goods, the liberalization of trade in services and financial transactions encouraged by the transnational corporations and international financial institutions, and the increasingly draconian restrictions imposed on the movement of individuals;

4. Again condemns acts of violence resulting from racism, racial discrimination and xenophobia directed against migrant workers;

5. Calls on the competent authorities of receiving countries to pay particular attention to the protection of women migrant workers, who are confronted with dual discrimination as women and migrant workers;

6. Takes note with satisfaction of the positive measures taken by the European Union to give practical substance to the Year against Sex Tourism which it has proclaimed, and the measures decided by several European countries with the aim of legalizing certain situations whose precarious character seriously affects migrant workers and members of their families;

7. Appeals to the States concerned by immigration to study the possibility of granting migrant workers dual nationality which would constitute a positive factor for integration, with due respect for cultural identity, and also protection against the evils of racial discrimination;

8. Affirms that the promulgation and/or reinforcement by Governments of effective legislation against racism and racial discrimination would guarantee the protection of migrant workers and members of their families;

9. Welcomes the establishment by the Commission on Human Rights of a working group on migrants and human rights;

10. Considers that it would be useful, on the occasion of the establishment of policies aimed at protecting the rights of migrant workers, for Governments to be able to benefit from the experience of representatives of migrant workers' organizations;

11. Is convinced that an information campaign on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would contribute to its ratification;

12. Again appeals to all Governments to ratify the Convention in order that it may be put into effect as soon as possible;

13. Decides to continue to consider this question at its next session under the same agenda item.

25th meeting
21 August 1997

[Adopted without a vote. See chap. V.]

1997/5. Racism and racial discrimination

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1996/8 of 23 August 1996, in which the Sub-Commission expressed its full support for the convening, as soon as possible, of a world conference to combat racism and racial discrimination,

Welcoming Commission on Human Rights resolution 1997/74 of 18 April 1997, in which the Commission recommended that the General Assembly convene a world conference on racism and racial discrimination, xenophobia and related intolerance not later than the year 2001 and noted the importance of taking a gender perspective into account throughout the preparation of the conference,

Welcoming also Economic and Social Council resolution 1997/38, in which the Council endorsed the call for the General Assembly to convene a world conference on racism and related intolerance not later than the year 2001 and expressed the view that the conference itself should be action-oriented, with a focus on practical measures to eradicate racism,

Welcoming further General Assembly resolution 50/136 of 21 December 1995, in which the Assembly decided that the international community in general and the United Nations in particular should give the highest priority to programmes for combating racism and racial discrimination, and Assembly resolution 51/81 of 12 December 1996 in which the Assembly expressed its regret at the lack of interest, support and financial resources for the Third Decade to Combat Racial Discrimination and Racial Discrimination and its Programme of Action,

Expressing its gratitude to the Committee on the Elimination of Racial Discrimination for recommending future Sub-Commission studies that could usefully contribute to the work of the Committee,

Noting with grave concern the persistence of racism and the emergence of new forms of racial discrimination, xenophobia and related intolerance, including new policies based on racial, religious, ethnic, cultural and national superiority or exclusivity,

Alarmed, moreover, at the increasingly violent forms of racism and racial discrimination in different parts of the world which constitute a grave threat to the building of a social order where all human rights can be realized,

Recognizing, in particular, that the 400-year tragedy of plantation slavery in the Americas continues to be felt throughout the hemisphere, and that African diaspora communities in the Americas continue to suffer from the legal, political and economic legacies of the slave trade, so that today Black communities in the Americas are among the poorest of the poor and poverty is an immutable fact of life for the majority of peoples of African descent living in the Americas,

Conscious that there exists a connection between the growing problem of racism and racial discrimination and global social and economic developments, including the widening gap between rich and poor within and between countries,

Deeply concerned that the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination has remained largely unimplemented,

Convinced that the increasing danger of racism and racial discrimination must be met by a concerted response by the international community commensurate with the threat posed to the realization of the objective of the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all,

Recalling the two World Conferences to Combat Racism and Racial Discrimination, held at Geneva in 1978 and 1983,

Convinced that the convening of a third world conference to combat racism and racial discrimination in the near future would send a clear signal of the determination of the world community to deal decisively with the

scourge of racism and would be an important opportunity for developing comprehensive, action-oriented strategies to combat racism and racial discrimination,

1. Encourages States that have not yet ratified the International Convention on the Elimination of All Forms of Racial Discrimination to do so, with a view to eradicating all forms of racial discrimination within their territories and appeals to States parties to the Convention to submit their reports to the Committee on the Elimination of Racial Discrimination in a timely manner;

2. Calls upon Member States to contribute generously to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination;

3. Requests the Secretary-General to take every measure, including those approved by the General Assembly in its resolutions 48/91 of 20 December 1993 and 49/146 of 23 December 1994 and in the programme budget relating to the activities of the Third Decade, to ensure the implementation of the recommendation by the General Assembly to establish a focal point on racism within the Centre for Human Rights for the coordination of activities under the Third Decade;

4. Calls upon the Working Group on Minorities to consider how the Sub-Commission in its future work might usefully address the continuing legal, political and economic legacies of the African slave trade, as experienced by Black communities throughout the Americas;

5. Expresses its full support for the convening of a world conference to combat racism and racial discrimination not later than the year 2001, as recommended by the Commission on Human Rights in its resolution 1997/74 and the Economic and Social Council in its resolution 1997/38;

6. Calls upon Member States to respond positively to the proposal to convene a world conference to combat racism and racial discrimination;

7. Confirms its readiness to contribute actively at every stage of the preparations for a world conference to combat racism and racial discrimination;

8. Requests the United Nations High Commissioner for Human Rights to submit to the Commission on Human Rights a report on the status of preparations for the world conference to combat racism and racial discrimination and the ways and means in which the Sub-Commission and other

relevant bodies can contribute to the tasks the Commission proposed be entrusted to it as the preparatory committee for the world conference to combat racism and racial discrimination;

9. Expresses its belief that the world conference to combat racism and racial discrimination should carefully consider the complicated interplay of discrimination based on race and discrimination based on other grounds, such as gender;

10. Proposes to hold in 1998, jointly with the Committee on the Elimination of Racial Discrimination an expert seminar that will explore in depth, inter alia, the issues put forward by the Committee on the Elimination of Racial Discrimination for further study by the Sub-Commission (see E/CN.4/Sub.2/1997/31), and determines, in addition, to continue to explore other opportunities to collaborate with and support the work of the Committee on the Elimination of Racial Discrimination;

11. Resolves that the Sub-Commission should strive in all of its work to include disaggregated data on the extent to which direct or indirect discrimination and violations of economic, social or cultural rights may be linked to racial, ethic or gender distinctions;

12. Invites all organizations and bodies of the United Nations, and particularly the special procedures of the Commission on Human Rights, to the extent appropriate within their mandates, to include an assessment of race and ethnicity factors in the conduct of their respective programmes of work, including all reporting under international human rights instruments and mechanisms;

13. Notes the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and calls upon both Member States and the Secretary-General to provide the Special Rapporteur, without delay, with all necessary assistance and resources to enable him to carry out his full mandate;

14. Takes note with satisfaction of the recommendations adopted by the Seminar on Immigration, Racism and Racial Discrimination organized by the High Commissioner/Centre for Human Rights from 5 to 9 May 1997, requests that the recommendations be widely distributed, and expresses the hope that the

Commission's working group of intergovernmental experts on the protection of the human rights of migrants will take the conclusions and recommendations of the Seminar into consideration during its deliberations;

15. Decides to give full attention to these issues at its fiftieth session under the same agenda item.

25th meeting
21 August 1997

[Adopted without a vote. See chap. V.]

1997/6. Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1991/12 of 26 August 1991, 1992/14 of 27 August 1992, 1993/41 of 26 August 1993, 1994/39 of 26 August 1994, 1995/29 of 24 August 1995 and 1996/27 of 29 August 1996,

Recalling also Commission on Human Rights resolution 1993/77 of 10 March 1993 and the analytical report on forced evictions prepared by the Secretary-General (E/CN.4/1994/20) and submitted to the Commission at its fiftieth session,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted arbitrarily or on a discriminatory basis from one's home, land or community,

Recognizing that the practice of forced eviction often involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, resulting in greater homelessness and inadequate housing and living conditions,

Noting that when, under exceptional circumstances, evictions are considered to be justified, such evictions must be carried out in strict compliance with relevant human rights provisions which demand, inter alia, that such evictions must not be carried out on a discriminatory or arbitrary basis, that evictions must be carried out through legal procedures that ensure appropriate due process protections and that, owing to the universal right to housing which is enshrined, most notably, in article 11 of the International Covenant on Economic, Social and Cultural Rights, such evictions must not result in individuals being rendered homeless or vulnerable to other human rights violations,

Emphasizing that ultimate legal and political responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 (1990) on international technical assistance measures, adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (E/1990/23, annex III, para. 6), and General Comment No. 4 (1991) in which the Committee considered that instances of forced eviction were, prima facie, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, and in accordance with relevant principles of international law (E/1992/23, annex III, para. 18),

Noting with appreciation the adoption of General Comment No. 7 (1997) on forced evictions by the Committee on Economic, Social and Cultural Rights (E/C.12/1997/4), in which the Committee recognized, inter alia, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable groups all suffer disproportionately from the practice of forced eviction, and that women in all groups are especially vulnerable, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including home ownership and rights of access to property or accommodation, and given the particular vulnerability of women to acts of violence and sexual abuse when they are rendered homeless,

Noting also the provisions on forced evictions contained in the Habitat Agenda (A/CONF.165/14, annex II) adopted by the United Nations Conference on Human Settlements (Habitat II) convened in Istanbul in June 1996,

1. Reaffirms that forced evictions may often constitute gross violations of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment;

2. Strongly urges Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced eviction, by, inter alia, ensuring the right to security of tenure for all residents;

3. Also strongly urges Governments to confer legal security of tenure on all persons, including all women and men who are currently threatened with forced eviction, and to adopt all necessary measures giving full protection against unreasonable eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their rights and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups, and recognizing the obligation to ensure such provision in the event of any forced eviction;

5. Invites all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, to take fully into account the views contained in the present resolution and other related pronouncements under international human rights and humanitarian law on the practice of forced eviction;

6. Requests the High Commissioner for Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade Governments to comply with relevant international standards, to prevent planned forced evictions from taking place, and to ensure the provision of adequate compensation when forced evictions have already occurred;

7. Welcomes the report of the expert seminar on the practice of forced evictions, which was convened by the Secretary-General in Geneva from 11 to 13 June 1997 (E/CN.4/Sub.2/1997/7) and the comprehensive human rights guidelines on development-based displacement adopted by the expert seminar and annexed to its report;

8. Requests the Commission on Human Rights to invite all States to consider the comprehensive human rights guidelines on development-based displacement with a view to their approving guidelines for such displacement as soon as possible;

9. Decides to consider the issue of forced evictions at its fiftieth session under the agenda item entitled "The realization of economic, social and cultural rights", insofar as necessary to achieve the objectives outlined in paragraph 8 above, and to determine how most effectively to continue its consideration of the issue of forced evictions.

27th meeting
22 August 1997

[Adopted with a vote. See chap. VI.]

1997/7. The realization of the right to education, including education in human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles relating to the right to education enshrined in the International Bill of Human Rights, in particular article 26 of the Universal Declaration of Human Rights, article 28 of the Convention on the Rights of the Child and article 13 of the International Covenant on Economic, Social and Cultural Rights, which provide that everyone has the right to education,

Recalling the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, in particular part I, paragraph 33, and part II, paragraphs 78 to 82, thereof,

Recalling the World Declaration on Education for All: Action to Meet Basic Learning Needs, adopted at Jomtien, Thailand, on 9 March 1990,

Recalling Commission on Human Rights resolution 1996/44 of 19 April 1996,

Recalling the World Plan of Action on Education for Human Rights and Democracy, adopted by the International Congress on Education for Human Rights and Democracy convened by the United Nations Educational, Scientific and Cultural Organization at Montreal, Canada, in 1993,

Bearing in mind the United Nations Decade for Human Rights Education proclaimed by the General Assembly of the United Nations in its resolution 49/184 of 23 December 1994, which is to end in the year 2004,

Noting that the question of the right to education has not been sufficiently dealt with in the framework of the United Nations bodies responsible for the protection of human rights,

Noting with satisfaction the developing international awareness of the importance of education, particularly in the field of human rights, for human development,

Conscious of the central role played by human rights education in combating intolerance, racism and exclusion,

1. Encourages States to make all necessary efforts to ensure realization of the right to education and the promotion of human rights education at all levels of the educational system;

2. Decides to place the question of the right to education, and particularly human rights education, on the agenda of the Sub-Commission for the duration of the United Nations Decade for Human Rights education (1995-2004);

3. Requests Mr. Mustapha Mehedi to prepare, without incurring financial obligations, a working paper on the right to education, and particularly human rights education, for submission to the Sub-Commission at its fiftieth session, the purpose of the working paper being to explain the content of the right to education, taking account, in particular, of its social dimension and the freedoms it includes and of its dual civil and political rights and economic, social and cultural rights character, and to identify ways and means of promoting human rights education.

27th meeting
22 August 1997

[Adopted without a vote. See chap. VI.]

1997/8. Traditional practices affecting the health of women and the girl child

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1996/19 of 19 August 1996,

Considering that female genital mutilation is a cultural practice which profoundly affects the physical health and mental health of the girl child and of women who are its victims,

Recalling that the Universal Declaration of Human Rights, in its article 5, and the International Covenant on Civil and Political Rights, in its article 7, proclaim that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Bearing in mind General Assembly resolution 843 (IX) of 17 December 1954 which, considering that certain customs, ancient laws and practices relating to marriage and the family are inconsistent with the principles enunciated in the United Nations Charter and in the Universal Declaration of Human Rights, urged all States to take all appropriate measures with a view to abolishing them,

Recalling the obligations undertaken by all States which have ratified the international human rights covenants, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child,

1. Takes note with satisfaction of the report submitted by the Special Rapporteur, Mrs. Halima Embarek Warzazi (E/CN.4/Sub.2/1997/10 and Add.1);

2. Draws attention to article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women which provides that States parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes;

3. Recalls that article 24 of the Convention on the Rights of the Child expressly calls on States parties to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children;

4. Fully supports the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which proclaims that gender-based violations, including those resulting from cultural prejudice, are incompatible with the dignity and worth of the human person and must be eliminated;

5. Appeals urgently to States to implement the Plan of Action on the elimination of traditional practices affecting the health of women and children (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1);

6. Takes note with satisfaction of the progress achieved by certain Governments in their struggle against harmful traditional practices and, in particular, against female genital mutilation;

7. Regrets, however, the small number of answers received, in particular from the Governments concerned, on the implementation of the Plan of Action;

8. Expresses its concern at the recent obstacles encountered by the campaign against female genital mutilation in certain countries;

9. Lends its support to the Governments and to the non-governmental organizations of the countries concerned and of all countries facing a similar situation in order that they may continue to work towards the total elimination of this cultural practice;

10. Appeals to all States concerned to intensify efforts to develop awareness of and to mobilize national public opinion concerning the harmful effects of the practice, in particular through education, information and training, in order to achieve the total elimination of female genital mutilation;

11. Also appeals to the international community to provide its material, technical and financial support to the non-governmental organizations and to the groups that are working with dedication to achieve the total elimination of this cultural practice that is harmful for girl children and women;

12. Commends the intergovernmental organizations concerned for the important contribution they are making to the efforts to eliminate harmful traditional practices and invites them to continue their activities aimed at supporting and strengthening the efforts being made by national and local organizations engaged in this struggle;

13. Requests the Special Rapporteur to submit to the Sub-Commission, at its next session, her follow-up report on the situation regarding the elimination of traditional practices affecting the health of women and children, in the framework of the Plan of Action.

27th meeting
22 August 1997
[Adopted without a vote. See chap. VII.]

1997/9. Implementation of the human rights of women and the girl child

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1996/21 of 29 August 1996 on the implementation of the human rights of women and the girl child,

Emphasizing that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights,

Welcoming General Assembly resolution 51/65 of 12 December 1996, in which the Assembly expressed its particular concern for the problem of violence against women migrant workers,

Recalling the outcomes of the World Conference on Human Rights held in Vienna from 14 to 25 June 1993 (A/CONF.157/23), the International Conference on Population and Development held in Cairo from 5 to 13 September 1994 (A/CONF.171/13), the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development held in Copenhagen from 6 to 12 March 1995 (A/CONF.166/9), and the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women held in Beijing from 4 to 15 September 1995 (A/CONF.177/20),

Bearing in mind the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child, as well as the Declaration on the Elimination of Violence against Women,

Emphasizing that the production and use of statistics disaggregated by gender should be promoted as a fundamental tool for identifying and monitoring the participation of women in economic, political and social spheres, including education, management, and policy- and decision-making,

Welcoming the work and noting with appreciation the reports of the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy and of the Special Rapporteur of the Sub-Commission, Ms. Halima Embarek Warzazi, on

traditional practices affecting the health of women and children, the latest of which are contained in documents E/CN.4/1997/47 and Add.1-4 and E/CN.4/1997/10 and Add.1, respectively,

Deeply concerned at the continuing reports of grave abuses and acts of violence committed against women, and that some groups of women are especially vulnerable to acts of discrimination, violence and abuse based on gender, including women belonging to minority groups, indigenous women, refugee women, migrant workers, women living in rural communities, women living in poverty, women with disabilities, elderly women, women in situations of armed conflict and girl children,

Convinced of the need to eliminate all forms of sexual violence and sexual exploitation, including trafficking for the purposes of prostitution, other forms of commercial sex, domestic labour and servile forms of marriage, which are violations of the human rights of women and girl children and are incompatible with the dignity and worth of the human person,

Affirming that all violations of the human rights of women in situations of armed conflict, including in particular murder, systematic rape, sexual slavery and forced pregnancy, are flagrant violations of international human rights and humanitarian law,

Recognizing that the advancement of women in the process of development requires a further elaboration of international principles of equality regarding inheritance laws and practices,

1. Requests that, where appropriate, future studies submitted to the Sub-Commission include gender-disaggregated statistics and discuss ways in which gender affects the various forms of abuse to which women are subjected, the consequences of those abuses, the availability and accessibility of remedies, the relationship between the abuses suffered by women and the subordinate status of women in public and private life, any gaps in existing international standards of protection and gender-specific recommendations to remedy these violations;

2. Urges Governments and non-governmental, national and international organizations to collect and disseminate gender-disaggregated statistics and indicators to monitor the representation and participation of women at all levels of political, economic and social life, with special attention to the impact of the multiple barriers faced by many women who exist at the intersection of discrimination, based on race, gender and poverty;

3. Calls upon Governments to promote and support the elimination of biases in educational systems to counteract gender segregation of the labour market, enhance the employability of women and effectively improve women's skills and broaden women's access to career choices, in particular in science, new technologies and other areas of potential expansion of employment;

4. Also calls upon Governments to measure and value through existing and improved mechanisms the unpaid work of women, such as work in agriculture, food production, voluntary work, work in family businesses, natural resource management and domestic work, in order to evaluate fully the economic contributions of women;

5. Urges Governments to take increased measures to ensure that the economic and social rights of women are being fully promoted and implemented through their equal access to economic resources, including land, property rights and credit and savings schemes, such as women's banks and cooperatives;

6. Also urges Governments to undertake measures to harmonize national legislation and customary and traditional practices with international principles of equality with respect to the right of inheritance of women and girls;

7. Further urges Governments, in order to prevent and eliminate all forms of violence against women and girls, to adopt measures for the effective implementation of the Declaration on the Elimination of Violence against Women and to ensure just and effective remedies and compensation to victims, taking into special consideration women who are at high risk of violence, such as women migrant workers, refugee women and women in conflict situations;

8. Urges all Governments to ensure that protection against gender-based crimes is adequately reflected in all aspects of the Statute and Rules that are currently being negotiated for an International Criminal Court, and in particular that the crimes of rape, widespread or systematic rape, sexual slavery, forced prostitution and other gender-based crimes are addressed throughout the principles, definitions, and rules of evidence and procedure for an International Criminal Court;

9. Calls upon all Governments that have not yet done so to ratify the Convention on the Elimination of All Forms of Discrimination against Women, without resort to reservations that are contrary to the object and purpose of the Convention or otherwise incompatible with international treaty law;

10. Also calls upon Governments to criminalize trafficking in women and girls in all its forms and to condemn and penalize all offenders, including persons acting under governmental authority and intermediaries, whether their offences were committed in their own or in a foreign country, while ensuring that the victims of these practices are not penalized;

11. Calls upon the multilateral financial institutions to take into consideration at all times the need of developing countries to allocate funds to ensure the economic and social advancement of women;

12. Calls upon the Secretary-General to take all steps necessary to ensure that the Committee on the Elimination of Discrimination against Women has equal status and resources with other human rights treaty monitoring bodies and to strengthen coordination among these bodies through the systematic exchange of information and the convening of future round tables to explore gender issues of common concern;

13. Urges the Secretary-General, in cooperation with the Office of the Special Adviser on Gender Issues and the Advancement of Women, to take the necessary steps to strengthen the function of the Focal Point for Women and to ensure the full implementation of the strategic plan of action for the improvement of the status of women in the Secretariat and in particular, to fulfil his target of having women hold 50 per cent of managerial and decision-making positions by the year 2000 as reaffirmed by the General Assembly in resolution 51/67 of 12 December 1996;

14. Fully supports the request of the Commission on the Status of Women that the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Special Rapporteur on violence against women and all other relevant rapporteurs and working groups, including treaty body experts, be invited to participate in the discussion at the forty-second session of the Commission on the Status of Women on the critical areas of concern "human rights of women" and "the girl child";

15. Supports the decision of the Commission on the Status of Women, at its forty-first session, to renew the mandate of the in-session open-ended working group on the elaboration of a draft optional protocol to the

Convention on the Elimination of All Forms of Discrimination against Women and urges the working group to accelerate its consideration of the development of an optional protocol;

16. Decides to consider more fully the implications of the Beijing Platform for Action for the work of the Sub-Commission in such areas as women and poverty, the role of women in global development and the promotion of human rights, as well as additional measures to combat violence against women, including trafficking, at its fiftieth session under the same agenda item.

27th meeting
22 August 1997

[Adopted without a vote. See chap. VII.]

1997/10. Permanent forum within the United Nations system for indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the purposes and principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind the recommendation contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights that the establishment of a permanent forum for indigenous people in the United Nations system should be considered (A/CONF.157/23, para. II.32),

Recalling General Assembly resolutions 48/163 of 21 December 1993 and 50/157 of 21 December 1995 and Commission on Human Rights resolution 1997/30 of 11 April 1997,

Deeply convinced that the establishment of a permanent forum cannot be considered as an alternative to the continued existence of the Working Group on Indigenous Populations,

Taking note of the reports of the workshops held in Copenhagen and Santiago de Chile, in accordance with Commission on Human Rights resolutions 1995/30 and 1997/30 respectively (E/CN.4/Sub.2/AC.4/1995/7 and Add.1-3 and E/CN.4/Sub.2/AC.4/1997/CRP.1),

Taking into account the comments and suggestions of the members of the Working Group and other participants at the fifteenth session of the Working Group on Indigenous Populations on this matter,

1. Recommends that a permanent forum within the United Nations system be established as soon as possible in the course of the International Decade of the World's Indigenous People and that its mandate include, inter alia, questions relating to the rights of indigenous peoples and all matters contained in the programme of activities for the International Decade;

2. Endorses in particular the recommendation of the Santiago workshop and the Working Group on Indigenous Populations that the Commission on Human Rights at its fifty-fourth session consider how to further the process of establishing a permanent forum for indigenous peoples in the United Nations, inter alia through the drafting of concrete proposals to this effect, bearing in mind the possibility of submitting the matter to the Economic and Social Council for action;

3. Decides to recommend to the Commission on Human Rights the following draft decision for adoption:

"The Commission on Human Rights, taking note of resolution 1997/10 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to request the Working Group on Indigenous Populations to focus on the questions of membership and participation in and the mandate of the possible permanent forum for indigenous peoples, with a view to the early establishment of such a forum within the present structure of the United Nations system, preferably under the Economic and Social Council."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/11. The relationship between the enjoyment of economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling that, under the Charter, one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights for all,

Reaffirming the commitment of States Members of the United Nations, contained in article 56 of the Charter, to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in article 55 of the Charter,

Conscious that the Universal Declaration of Human Rights provides that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized,

Reaffirming the Declaration on Social Progress and Development proclaimed by the General Assembly in its resolution 2542 (XXIV) of 11 December 1969, the Declaration and Programme of Action on the Establishment of a New International Economic Order proclaimed by the General Assembly in its resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, the Charter of Economic Rights and Duties of States adopted by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, the Declaration of the Principles of International Cultural Cooperation proclaimed by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966, General Assembly resolution 1803 (XVII) of 14 December 1962, entitled "Permanent sovereignty over natural resources" and the resolutions adopted by the World Summit for Social Development (A/CONF.166/9, chap. I),

Mindful that in the Vienna Declaration and Programme of Action (A/CONF.157/23) the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of all fundamental human rights, reaffirmed that the human person was the central subject of development and underlined the need for a concerted effort to ensure recognition of economic, social and cultural rights at the national, regional and international levels,

Noting that the Working Group on the Right to Development identified the concentration of economic and political power in a few countries and corporations as one of the obstacles to the realization of the right to development,

Noting also that lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment both at the national and the international level,

Taking into account the fact that the Working Group on the Right to Development recommended the adoption of new international legislation and the creation of effective international institutions to regulate the activities of transnational corporations and banks, and in particular to resume the multilateral negotiations on a code of conduct for transnational corporations,

Bearing in mind the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy adopted by the Governing Body of the International Labour Office in November 1977,

Recognizing that the activities of the various organizations in the United Nations system should be closely interrelated and that it is necessary to draw on all the efforts made in the various disciplines relating to the human person in order to promote all human rights effectively,

Recalling its resolutions 1989/20 and 1989/21 of 31 August 1989, 1990/16 of 30 August 1990, 1991/27 of 29 August 1991, 1992/29 of 27 August 1992, 1993/36 of 25 August 1993, 1993/40 of 26 August 1993, 1994/40, 1994/41 and 1994/48 of 26 August 1994, 1995/31 of 24 August 1995 and 1996/39 of 30 August 1996,

Recalling also Commission on Human Rights resolutions 1989/15 of 2 March 1989, 1990/17 and 1990/18 of 23 February 1990, 1991/13 of 22 February 1991, 1992/9 of 21 February 1992, 1993/12 of 26 February 1993, 1994/11 of 25 February 1994, 1995/13 of 25 February 1995, 1996/15 of 11 April 1996 and 1997/9 of 3 April 1997,

Taking into account the background document (E/CN.4/Sub.2/1995/11) prepared by the Secretary-General in accordance with its resolution 1994/37 and the report (E/CN.4/Sub.2/1996/12 and Corr.1) submitted by the Secretary-General in accordance with its resolution 1995/31,

1. Reaffirms the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986, underlining the multidimensional, integrating and dynamic character of this right which favours a partnership for development and constitutes a relevant framework for international cooperation and national action aiming at universal and effective respect for all human rights in their universality, indivisibility and interdependence;

2. Affirms that the global and multidimensional approach defined in the Declaration on the Right to Development should provide a basis for

the work undertaken on the relationship between the enjoyment of human rights and the working methods and activities of transnational corporations;

3. Decides to entrust Mr. El Hadji Guissé with the task of preparing, without incurring financial implications, a background document on the question of the relationship between the enjoyment of human rights and the working methods and activities of transnational corporations, for submission to the Sub-Commission and to the Working Group referred to below;

4. Decides to establish, for a three-year period, an inter-sessional working group of the Sub-Commission, composed of five of its members, to examine the working methods and activities of transnational corporations, with the following mandate:

(a) To identify and examine the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development, as well as civil and political rights;

(b) To investigate, monitor, examine, receive and gather information on the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and of the right to development, as well as of civil and political rights;

(c) To make recommendations and proposals aimed at regulating the methods of work and activities of transnational corporations in order to ensure that these are in keeping with the economic and social objectives of the countries in which they operate, and to promote the enjoyment of economic, social and cultural rights and of the right to development;

(d) To prepare each year a list of countries and transnational corporations, indicating, in United States dollars, their gross national product or financial turnover, respectively, and to submit its first report to the Sub-Commission at its fifty-first session;

5. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights ,

Taking note of resolution 1997/11 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Decides to endorse the decision of the Sub-Commission to establish, for a three-year period, an inter-sessional working group of the Sub-Commission, composed of five of its members, to examine the working methods and activities of transnational corporations, with the following mandate:

(a) To identify and examine the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and of the right to development, as well as of civil and political rights;

(b) To investigate, monitor, examine, receive and gather information on the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and of civil and political rights;

(c) To make recommendations and proposals aimed at regulating the working methods and activities of transnational corporations in order to ensure that these methods and activities are in keeping with the economic and social objectives of the countries in which they operate, and to promote enjoyment of economic, social and cultural rights and of the right to development;

(d) To prepare each year a list of countries and transnational corporations, indicating, in United States dollars, their gross national product or financial turnover, respectively, and to submit its first report to the Sub-Commission at its fifty-first session."

27th meeting
22 August 1997

[Adopted without a vote. See chap. VI.]

1997/12. Study on indigenous land rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Acknowledging that indigenous peoples in many countries have been deprived of their human rights and fundamental freedoms and that many of the human rights problems faced by indigenous peoples are linked to the historical and continuing deprivation of ancestral rights over lands, territories and resources,

Recognizing the profound spiritual, cultural, social and economic relationship that indigenous peoples have to their total environment and the urgent need to respect and recognize the rights of indigenous peoples to their lands, territories and resources,

Acknowledging that lack of secure land rights, in addition to continued instability of State land tenure systems and impediments to efforts for the promotion and protection of indigenous communities and the environment, are imperilling the survival of indigenous peoples,

Recognizing that United Nations organs and Member States have increasingly acknowledged that lands and natural resources are essential to the Economic and cultural survival of indigenous peoples, and that some States have enacted legal measures that uphold indigenous land rights or have established procedures for arriving at legally binding agreements on indigenous land-related issues,

Mindful of the development of relevant international standards and programmes which promote and affirm the rights of indigenous peoples to their lands and resources, in particular the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, Agenda 21 adopted by the United Nations Conference on Environment and Development, World Bank Operational Directive 4.20, the draft Inter-American Declaration on the Rights of the Indigenous Peoples developed by the Inter-American Commission on Human Rights of the Organization of American States, and the draft United Nations declaration on the rights of indigenous people,

Recognizing that despite these international and national advances, problems continue to abound which impede the effective enjoyment of indigenous land rights,

Recalling that many States in which indigenous peoples live have yet to enact laws or policies regarding indigenous land claims or in other instances have not provided adequate implementing mechanisms concerning indigenous land rights that are mutually acceptable to the parties concerned,

Recalling also the activity of the United Nations, which lays the groundwork for a thorough inquiry into the subject of indigenous land rights, in particular, the Sub-Commission's study of the problem of discrimination against indigenous populations (E/CN.4/Sub.2/1986/7 and Add.1-4),

Recalling further the report and recommendations of the expert seminar on practical experiences regarding indigenous land rights and claims, held in Whitehorse, Canada, in March 1996 (E/CN.4/Sub.2/AC.4/1996/6),

Recalling its resolution 1996/38 of 29 August 1996, in which it recommended that the Commission on Human Rights authorize the appointment of Ms. Erica-Irene A. Daes as Special Rapporteur to conduct a comprehensive study on indigenous land rights,

Recalling also Commission on Human Rights decision 1997/114 of 11 April 1997 and Economic and Social Council decision 1997/... of ... July 1997 endorsing the appointment of Ms. Erica-Irene A. Daes as Special Rapporteur with the mandate to prepare a working paper on indigenous people and their relationship to land with a view to suggesting practical measures to address ongoing problems in this regard,

Having heard the important introductory statement of the Special Rapporteur on indigenous peoples and their relationship to land,

Having considered the comprehensive preliminary working paper on indigenous peoples and their relationship to land submitted by the Special Rapporteur (E/CN.4/Sub.2/1997/17 and Corr.1),

1. Expresses its deep appreciation and thanks to the Special Rapporteur for her introductory statement and the working paper on indigenous peoples and their relationship to land;

2. Requests the Secretary-General to transmit the working paper to Governments, indigenous peoples and intergovernmental and non-governmental organizations, as soon as possible, for their comments and suggestions;

3. Requests the Special Rapporteur to prepare her final working paper on the basis of the comments and information received from Governments, indigenous peoples and others and to submit it to the Working Group on Indigenous Populations at its sixteenth session and the Sub-Commission at its fiftieth session;

4. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/12 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, requests the Secretary-General to provide the Special Rapporteur with the assistance necessary to enable her to

complete her final working paper in accordance with Commission on Human Rights decision 1997/114 of 11 April 1997 and Economic and Social Council decision 1997/... of ... July 1997."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/13. Protection of the heritage of indigenous people

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting decision 1997/112 of 11 April 1997 of the Commission on Human Rights, approved by decision 1997/... of the Economic and Social Council, in which the Commission recommended that Ms. Erica-Irene A. Daes be entrusted with a continuing mandate to exchange information with all parts of the United Nations system involved in activities concerned with the heritage of indigenous people, with the purpose of facilitating cooperation and coordination and of promoting the full participation of indigenous people in those efforts,

Noting also that the Commission, in decision 1997/112, requested the Secretary-General to provide the Special Rapporteur of the Sub-Commission with all the assistance necessary to accomplish her work,

Recalling the Special Rapporteur's final and supplementary reports (E/CN.4/Sub.2/1995/26 and E/CN.4/Sub.2/1996/22) and welcoming the report of the technical meeting on the protection of the heritage of indigenous people (E/CN.4/Sub.2/1997/15),

1. Expresses its appreciation to the Special Rapporteur, Ms. Erica-Irene A. Daes, for her important and constructive work on the protection of the heritage of indigenous people;

2. Requests the Special Rapporteur to continue to exchange information with Governments, indigenous peoples and all parts of the United Nations system on the heritage of indigenous people;

3. Requests the United Nations High Commissioner for Human Rights to convene, prior to the sixteenth session of the Working Group on Indigenous Populations and the fiftieth session of the Sub-Commission, a seminar on the draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/1994/31, annex) with the participation of the

Special Rapporteur and representatives of Governments, United Nations bodies and organizations, specialized agencies, organizations of indigenous peoples and competent indigenous persons;

4. Decides to recommend the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/13 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the recommendation of the Sub-Commission that the United Nations High Commissioner for Human Rights organize a seminar on the draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/1994/31, annex) with the participation of the Special Rapporteur, Ms. Erica-Irene A. Daes, and representatives of Governments, United Nations bodies and organizations, specialized agencies, organizations of indigenous peoples and competent indigenous persons."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/14. Working Group on Indigenous Populations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without discrimination as to race, sex, language or religion,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous peoples,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

Taking note with appreciation of the report of the Working Group on Indigenous Populations on its fifteenth session (E/CN.4/Sub.2/1997/14) and, in particular, of its conclusions and recommendations,

Taking note also of Commission on Human Rights resolution 1993/30 of 5 March 1993, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

Welcoming the decision of the Working Group on Indigenous Populations to highlight specific themes during its fifteenth session and the fruitful discussions on issues relating to indigenous peoples and environment, land and sustainable development, and to indigenous peoples and health,

Mindful of the relevant recommendations adopted by the World Conference on Human Rights, in particular those contained in Part I, paragraph 20 and Part II, paragraphs 28 to 32 of the Vienna Declaration and Programme of Action (A/CONF.157/23),

1. Expresses its deep appreciation to the Working Group on Indigenous Populations and in particular to its Chairperson-Rapporteur, Ms. Erica-Irene Daes, for the important and constructive work accomplished during its fifteenth session;

2. Requests the Secretary-General to transmit the report of the Working Group on its fifteenth session to indigenous organizations, Governments and intergovernmental and non-governmental organizations concerned, as well as to all thematic rapporteurs, special representatives, independent experts and working groups;

3. Requests that the report of the Working Group be made available to the Commission on Human Rights at its fifty-fourth session;

4. Recommends that the Working Group cooperate as a body of experts in any conceptual clarifications or analysis which might assist the working group established by the Commission on Human Rights in its resolution 1995/32 of 3 March 1995 to elaborate further the draft United Nations declaration on the rights of indigenous peoples;

5. Expresses its appreciation to the Chairperson-Rapporteur of the Working Group for her supplementary working paper on the concept of "indigenous peoples" (E/CN.4/AC.4/1997/2);

6. Recommends that the Working Group on Indigenous Populations, at its sixteenth session, continue to address indigenous health and indigenous

land rights issues, and to include "indigenous peoples: education and language" as the principal item on the agenda of the sixteenth session;

7. Requests the Secretary-General to invite Governments, intergovernmental organizations and indigenous and non-governmental organizations to provide information and data, in particular on matters relating to "indigenous peoples: education and language", as well as health and land rights, to be made available as background papers at the session;

8. Requests the High Commissioner for Human Rights to encourage the undertaking of studies with respect to the rights to food and adequate nutrition of indigenous peoples, as they relate to their access to land, cultural heritage and health, and, as appropriate, call for an international workshop on the theme with the participation of Governments, United Nations bodies, programmes and organizations, and indigenous and non-governmental organizations with a view to evaluating the present access to adequate food and the nutritional status of indigenous peoples and to contributing to practical measures to improve the situation;

9. Requests the Chairperson-Rapporteur of the Working Group to inform the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations that the Working Group on Indigenous Populations at its sixteenth session will highlight education and language issues, so that the Board can bear this in mind when it meets for its eleventh session;

10. Requests the Secretary-General to prepare an annotated agenda for the sixteenth session of the Working Group containing, inter alia, the following items: standard-setting activities, including a sub-item on "possible future standard-setting activities, including guidelines or codes of conduct for private sector energy and mining concerns"; review of developments, including sub-items on "review of developments: general statements", "review of developments: indigenous peoples - education and language", "review of recent developments: health and indigenous peoples"; study on indigenous peoples and their relationship to land; a permanent forum for indigenous peoples; the International Decade of the World's Indigenous People, including a sub-item on "preparations for the mid-point review of the Decade"; and the study on treaties, agreements and other constructive arrangements between States and indigenous peoples;

11. Recommends that the Commission on Human Rights request the Economic and Social Council to authorize the Working Group to meet for five working days prior to the fiftieth session of the Sub-Commission;

12. Decides to recommend the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/14 of 22 August 1997, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the request of the Sub-Commission to recommend that the Economic and Social Council authorize the Working Group on Indigenous Populations to meet for five working days prior to the fiftieth session of the Sub-Commission."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/15. International Decade of the World's Indigenous People

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the Purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling General Assembly resolution 48/163 of 21 December 1993, in which the Assembly proclaimed the International Decade of the World's Indigenous People,

Convinced that the science of biology, and progress and developments in biological sciences must be in the interests of human beings and human life and not vice versa,

Deeply concerned that understanding of human nature has been significantly modified by the rapid rise of developments in biotechnology as a science, particularly in the modification, removal and replacement of human genes, and that indigenous people are most vulnerable to the risk of being singled out for human genetic research and human gene patenting by the biotechnology industry,

Recalling that the goal of the Decade is the strengthening of international cooperation for the solution of problems faced by indigenous peoples in such areas as human rights, the environment, development, education and health,

Recalling also General Assembly resolution 50/157 of 21 December 1995, in which the Assembly adopted the comprehensive programme of activities for the International Decade of the World's Indigenous People,

Having considered the report of the Working Group on Indigenous Populations on its fifteenth session (E/CN.4/Sub.2/1997/14),

1. Welcomes the observance of the International Day of the World's Indigenous People on 9 August;

2. Also welcomes the recommendation made by the Commission on Human Rights in its resolution 1997/32 of 11 April 1997 that the United Nations High Commissioner for Human Rights assume responsibility for coordination of the International Decade;

3. Recommends that the Coordinator for the Decade consider holding a special fund-raising meeting with interested permanent missions and the members of the Advisory Group to encourage financial contributions to the United Nations Trust Fund for the Decade and the United Nations Voluntary Fund for Indigenous Populations, as well as the secondment of qualified staff, including indigenous persons, to assist with the work of the High Commissioner/Centre for Human Rights relating to the programme for indigenous peoples;

4. Also recommends that attention continue to be given to improving the extent of the participation of indigenous peoples in planning and implementing the activities of the Decade;

5. Further recommends that in accordance with General Assembly resolution 50/157 of 21 December 1995, the draft United Nations declaration on the rights of indigenous peoples be adopted as early as possible in the International Decade;

6. Welcomes the reports of the workshops held in Copenhagen and Santiago de Chile, in accordance with Commission on Human Rights resolutions 1995/30 and 1997/30 respectively (E/CN.4/Sub.2/AC.4/1995/7 and Add.1-3 and E/CN.4/Sub.2/AC.4/1997/CRP.1);

7. Congratulates the Advisory Group for the Voluntary Fund for the Decade for the work it has accomplished, for its initiatives and for the transparency of its working methods and decisions;

8. Takes note of the work of the United Nations Educational, Scientific and Cultural Organization in the field of the human genome to complete the preliminary draft of a universal declaration on the human genome and human rights, a standard-setting framework urgently needed to ensure that such research and its applications are developed in a harmonious way that demonstrates regard for human dignity, in particular for the dignity and way of life of indigenous peoples;

9. Recognizes the need for a systematic analysis of the problems faced by indigenous peoples when matters of biodiversity, genetics and the use of biological resources and sustainability are being discussed, negotiated and determined, in order to protect indigenous peoples' cultures, way of life and survival, within the context of the programme of activities for the International Decade;

10. Expresses its appreciation to the Government of Spain for its offer to host a workshop of indigenous journalists in Madrid in 1998;

11. Urges the High Commissioner/Centre for Human Rights, in consultation with the Government of Spain to accelerate the relevant procedure so that the planned workshop of indigenous journalists can take place early in 1998, with the participation of government representatives, indigenous journalists, competent United Nations agencies, including the Information Service of the United Nations Office in Geneva, the Chairperson-Rapporteur of the Working Group on Indigenous Populations and the International Press Institute;

12. Requests the Working Group on Indigenous Populations, at its sixteenth session to prepare for the mid-point review of the International Decade of the World's Indigenous People in 1999;

13. Welcomes the recommendation made by the Commission on Human Rights in its resolution 1997/32 that the High Commission/Centre for Human Rights convene a workshop in the spring of 1998 for research and higher education institutions focusing on indigenous issues.

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]